

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TODD WHITE

Plaintiff,

v.

ACELL, INC.

Defendant.

Civil Case No.: 1:20-cv-00173-GLR

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO SEQUESTER NON-
PARTY WITNESSES**

Defendant ACell, Inc. (“Defendant” or “ACell”), by and through its undersigned counsel, and pursuant to Fed. R. Evid. 615 and Local Rule 107.7, states that it does not have an objection to sequestering witnesses except for ACell’s party representative and experts. Local Rule 107.7 provides that the “exclusion of witnesses rule” only applies to “parties (or the designated representatives of the parties), their counsel, and expert witnesses approved by the Court.” D. Md. Local R. 107.7. Therefore, with the exception of ACell’s designated representative, whom it will decide on closer to trial,¹ and ACell’s two experts, Rona Wexler and Chad Staller, ACell consents to invoking the “exclusion of witnesses rule.”

¹ Fed. R. Evid. 615 exempts certain classes of witnesses from sequestration orders. In particular, subsections (2) and (3) of Rule 615 provide that a sequestration order does not apply to “an officer or employee of a party which is not a natural person designated as its representative by its attorney” or “a person whose presence is shown by a party to be essential to the presentation of the party’s cause” *Id.* Multiple courts have held that former employees fall within both of these subsections and are properly excepted from sequestration orders if designated by a party. *See United States ex rel. Bahrani v. ConAgra, Inc.*, 624 F.3d 1275, 1296 (10th Cir. 2010); *Bruneau v. South Kortright Cent. Sch.*, 962 F. Supp. 301, 305 (N.D.N.Y. 1997).

Dated: August 12, 2022

By:

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2022, the attached Response to Plaintiff's Motion to Sequester Non-Party Witnesses was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing:

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